IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.11787-M of 2005
Date of Decision:- 05.04.2007

Manjit Kaur & anr. ....Petitioner(s)

through
Mr.Sandeep Majithia, Advocate

vs.

State of Punjab ....Respondent(s)

through
Mr.Rajesh Bhardwaj, DAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1.Whether Reporters of the local papers may be allowed to see the judgment?
2.To be referred to the Reporters or not?
3.Whether the judgment should be reported in the Digest?

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SURYA KANT, J.

The prayer in this petition is for quashing of F.I.R.No.240 dated 16.7.2001 under Section 323, 324,326 IPC registered at Police Station, Nakodar as well as order dated 5.4.2004 (Annexure P-3) whereby the petitioners have been summoned to face trial in the aforesaid case.

Various contentions have been raised on behalf of the petitioners in support of the aforesaid prayer. Reliance has also been placed upon a judgment of this Court in the case of **Manil Kumar Midha vs. State of Haryana and anr.,** 1988 (1) R.C.R. (Criminal) 209.

On the other hand, it is contended by Mr.Rajesh Bhardwaj, learned DAG, Punjab that after submission of a supplementary report under Section 173 (8) Cr.P.C., *prima facie,* case of involvement of the petitioners has been made out.

Having heard learned counsel for the parties and keeping in

view the fact that the petition is founded upon disputed questions of fact which cannot be gone into in these proceedings, this petition is disposed of with the following terms:-

(i) the petitioners shall be at liberty to raise all the pleas, as raised in this petition, before the learned trial Court at an appropriate stage and the same shall be gone into by it.

(ii) having regard to the fact that other co-accused can safe-guard their interest as well, liberty is granted to the petitioners to move an application to grant them exemption from personal appearance and if any such application is moved by them, the learned trial Court is directed to grant them exemption from personal appearance, however, subject to the following conditions:-(i) they will be represented through counsel; (ii) will not delay/stall the trial proceedings; (iii) will not dispute their identity as accused; and (iv) will have no objection if the prosecution evidence is also recorded in their absence but in the presence of their counsel.

April 05, 2007 **(SURYA KANT)**
poonam **JUDGE**